

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

March 25, 2024
LAURA A. AUSTIN, CLERK
BY: /s/T. Taylor
DEPUTY CLERK

MEMORANDUM OPINION AND ORDER

This action was filed by Tarun Kumar Vyas pursuant to 28 U.S.C. § 2254. On May 30, 2023, the court issued an opinion and order denying Vyas' petition without prejudice for lack of jurisdiction. (Dkt. Nos. 9, 10.) Vyas filed a motion to reconsider (Dkt. No. 18), which the court construed as a motion to alter or amend the judgment because it was filed within 28 days of the entry of judgment. *See* Fed. R. Civ. P. 59(e). The court denied that motion on March 4, 2024. On March 22, 2024, Vyas moved for an extension of time to file an appeal. (Dkt. No. 29.)

Rule 4 of the Federal Rules of Appellate Procedure provides that a notice of appeal in a civil case must be filed 30 days after the entry of judgment or, as applicable here, after the entry of an order disposing of a Rule 59 motion. Fed. R. App. P. 4(a)(1)(A), 4(a)(4)(A)(iv). The court may extend the time to file an appeal if the moving party shows excusable neglect or good cause. Fed. R. App. P. 4(a)(5)(A). No extension may exceed 30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later. Fed. R. App. P. 4(a)(5)(C).

Vyas argues that he needs extra time to file his appeal due to a variety of factors, including mail processing delays, difficulty acquiring stamps and writing supplies, and an

inability to access the prison law library to acquire the correct form to file his appeal. The court finds that Vyas has established good cause to grant an extension.

Vyas also filed a motion to supplement the record with additional arguments concerning the court's jurisdiction. (Dkt. No. 28.) The court will deny this motion as the court has already ruled on Vyas' Rule 59 motion.

For the foregoing reasons, it is HEREBY ORDERED that Vyas' motion for an extension of time to file an appeal (Dkt. No. 29) is GRANTED. The time for Vyas to appeal is extended to 30 days after the prescribed time to appeal or 14 days after this order is entered, whichever is later.

It is FURTHER ORDERED that Vyas' motion to supplement (Dkt. No. 28) is DENIED.

The Clerk is directed to transmit a copy of this order to Vyas.

Entered: March 25, 2024.

/s/ Elizabeth K. Dillon
Elizabeth K. Dillon
United States District Judge